

Subject State Government

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## Overview

This is the 2023 omnibus agriculture and broadband development finance bill. It would appropriate funding in state fiscal years 2024 and 2025 to the Minnesota Department of Agriculture (MDA), the Board of Animal Health, the Agricultural Utilization Research Institute, and the Department of Employment and Economic Development's Broadband Development Office.

Among other things, H.F. 2679 would also establish a beginning farmer equipment and infrastructure grant program, modify a beekeeper compensation program, create a grain indemnity program, increase the fertilizer inspection fee, authorize MDA to impose an information technology surcharge, and allow the Department of Employment and Economic Development (DEED) to award larger border-to-border broadband development grants to projects that also receive federal funding.

## Article 1: Agriculture Appropriations

This article appropriates money to MDA, the Board of Animal Health, and the Agricultural Utilization Research Institute in state fiscal years 2024 and 2025.

Section	Description – Article 1: Agriculture Appropriations
1	<p><b>Agriculture appropriations.</b></p> <p>Inserts boilerplate language regarding the appropriation format and terminology used in this article.</p>
2	<p><b>Department of Agriculture.</b></p> <p>Appropriates general fund and remediation fund dollars to MDA for specified purposes.</p> <p><b>Subd. 1. Total appropriation.</b> Denotes the total amount of money, by fund, appropriated to MDA in this bill.</p>

**Section Description – Article 1: Agriculture Appropriations**

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**Subd. 2. Protection services.** Appropriates general fund and remediation fund dollars for MDA’s regulatory programs. Specifically, this subdivision provides funding for the following MDA divisions: Pesticide and Fertilizer Management; Laboratory Services; Plant Protection; Dairy and Meat Inspection; and Food and Feed Safety.

**Subd. 3. Agricultural marketing and development.** Appropriates general fund dollars for MDA’s Agricultural Marketing and Development Division.

**Subd. 4. Agriculture, bioenergy, and bioproduct advancement.** Appropriates general fund dollars for specific programs and purposes within this budget category.

**Subd. 5. Administration and financial assistance.** Appropriates general fund dollars for specified pass-through grants and agency administration.

**3 Board of Animal Health.**

Appropriates general fund dollars to the Board of Animal Health. Specifies the amount appropriated for certain purposes.

**4 Agricultural Utilization Research Institute.**

Appropriates general fund dollars to the Agricultural Utilization Research Institute. Specifies the amount appropriated for certain purposes.

**5 Administration and financial assistance.**

Authorizes MDA to use money appropriated by the 2022 Legislature for down payment assistance grants in fiscal year 2023 through fiscal year 2024.

## **Article 2: Agriculture Statutory Changes**

Among other things, this article would establish a beginning farmer equipment and infrastructure grant program, modify a beekeeper compensation program, modify nursery certificate requirements, create a grain indemnity program, increase the fertilizer inspection fee, and authorize MDA to impose an information technology surcharge.

**Section Description – Article 2: Agriculture Statutory Changes**

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**1 Emerging Farmer Working Group.**

Eliminates the annual reporting requirement for MDA’s Emerging Farmer Working Group – this requirement appears in modified form in section 6.

**Section Description – Article 2: Agriculture Statutory Changes**

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- 2 Emerging Farmers Office.**  
Codifies MDA’s existing Emerging Farmers Office in statute and assigns the office specific duties, including coordinating the new beginning-farmer grant program established in section 3.
- 3 Beginning farmer equipment and infrastructure grants.**  
Authorizes MDA to award and administer equipment and infrastructure grants to beginning farmers, giving preference to emerging farmers.
- 4 Process.**  
Requires MDA to develop competitive eligibility criteria for beginning farmer equipment and infrastructure grants and authorizes MDA to award grants on a needs basis.
- 5 Grant awards.**  
Authorizes beginning farmer equipment and infrastructure grant projects to continue for up to two years.
- 6 Report.**  
Requires MDA to report to the legislature annually regarding the Emerging Farmer Working Group’s activities, recommendations, and any beginning farmer grants awarded.
- 7 Awarding of grants.**  
Modifies MDA’s sustainable agriculture demonstration grant program statute to expand eligible in-kind grantee contributions to include the grantee’s equipment use and personal labor. Authorizes MDA to reimburse certain grantees for labor and equipment.
- 8 Bee kill incident.**  
Defines the term “bee kill incident” for purposes of an existing MDA program that compensates bee owners for certain losses attributable to acute pesticide poisoning.
- 9 Bee owner.**  
Modifies the definition of “bee owner.” As modified, a bee owner eligible for compensation would be a person who owns one or more bee colonies. Under current law, the person must own an apiary, which is defined as “a place where a collection of one or more hives or colonies of bees or the nuclei of bees are kept.”

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**10 Pollinator research account.**

Modifies eligible uses of money in the pollinator research account and extends the account's expiration date by two years, to July 1, 2027. Requires the University of Minnesota to select projects funded by the account in consultation with MDA.

**11 Compensation for bees killed by pesticide; appropriation.**

Modifies the statute that governs MDA's bee kill compensation program. Limits a bee owner's compensation to \$10,000 per incident and \$20,000 per fiscal year. Specifies that to be eligible for compensation, a bee owner and their apiary must be registered with an MDA-designated pesticide registry program before the incident occurs. Eliminates a provision that prohibits MDA from awarding compensation when the pesticide applicator responsible for the kill did not follow the directions and warnings on the pesticide product's label. Requires the bee owner to file a claim no later than three months after MDA determines that the bee death or colony loss was caused by acute pesticide poisoning. Eliminates MDA's authority to collect a penalty from the pesticide applicator and award this money to the bee owner as compensation for their loss, but authorizes MDA to add the amount of the bee owner's claim to any penalty amount otherwise assessed by MDA against the pesticide applicator.

**12 Payment of inspection fee.**

Increases the annual fertilizer inspection fee from 39 cents to 64 cents per ton. Under current law and this bill, this fee is paid by those who register specialty fertilizers, soil amendments products, or plant amendments for use in Minnesota (i.e., "registrants") and those who sell or distribute bulk fertilizers for use on agricultural lands, custom apply fertilizers, or manufacture, blend, or otherwise manipulate fertilizers (i.e., "licensees").

**13 Live plant dealer.**

This is the first in a series of sections that would modify certificate requirements for those who raise and/or sell plants, trees, and other nursery stock. Defines "live plant dealer" for purposes of Minnesota Statutes, chapter 18H (Nursery Law). Combined with subsequent sections of this article – including the repealer section at the end of the article – this section would replace the existing terms "nursery stock broker," "nursery stock dealer," and "nursery stock grower" as they appear in chapter 18H.

**14 Dissemination of information.**

Modifies terminology and authorizes MDA to disseminate information to plant dealers.

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- 15 Nursery certificate requirements.**  
Modifies terminology and prohibits the sale and distribution of certified nursery stock, the collection of wild nursery stock, and other specified acts unless the person possesses a live plant dealer certificate issued by MDA.
- 16 New live plant dealer certificate.**  
Requires new live plant dealers to obtain a certificate from MDA for each retail sales location and to pay a certificate fee of \$50 per retail location and an additional inspection fee of \$100 plus \$10/acre up to 200 acres.
- 17 Live plant dealer renewal certificate.**  
Establishes certificate renewal fees for live plant dealers of \$50 per retail location plus a fee based on gross annual purchases of certain certified nursery stock. Establishes inspection and late fees for live plant dealers.
- 18 Virus disease-free certification.**  
Modifies terminology and allows MDA to collect reasonable fees from live plant dealers for certain optional MDA services.
- 19 Nursery stock certification requirements.**  
Modifies terminology and nursery stock certification requirements for live plant dealers.
- 20 Reciprocal agreements.**  
Modifies terminology and authorizes MDA to prevent live plant dealers from distributing nursery stock that does not meet state standards.
- 21 Violations.**  
Modifies terminology and provides that it is unlawful to sell nursery stock to an uncertified live plant dealer.
- 22 Amount of fee.**  
Modifies commercial animal feed requirements. Eliminates a requirement that pet food distributors submit the current label for each pet food product to MDA annually, and requires instead that these distributors submit a label to MDA only upon request.
- 23 Food handler license account; appropriation.**  
Creates a new dedicated account in the agricultural fund. Requires MDA to deposit food handler license fees in this new account and appropriates account dollars to

**Section Description – Article 2: Agriculture Statutory Changes**

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- MDA to pay for the agency’s food handler licensing and inspection duties. Under current law, MDA deposits this revenue in the general fund.
- 24     **Fees; application.**  
Modifies fees for food handler facility floor plan review under the Minnesota Food Code. Specifies that the plan review fee for a remodeled food establishment would be based on the total square footage of the remodeled food preparation, service, display, and storage area, unless the retail food handler is applying for a new license that includes the conversion of an existing building or structure previously licensed as a food establishment.
- 25     **Vending machine inspection account; appropriation.**  
Creates a new dedicated account in the agricultural fund. Requires MDA to deposit vending machine inspection fee revenue in this new account and appropriates account dollars to MDA to pay for the agency’s vending machine identification and inspection duties. Under current law, MDA deposits this revenue in the general fund.
- 26     **Sunset.**  
Extends the expiration date for the Agricultural Growth, Research, and Innovation program by ten years, to June 30, 2035.
- 27     **Appropriation.**  
Allows MDA to use up to 6.5 percent of statutory oriented strand board production incentive appropriations for the agency’s costs to administer the incentive.
- 28     **Failure.**  
This is the first in a series of sections that would establish an indemnity program for grain producers. Defines “failure” for purposes of establishing when grain farmers (i.e., “producers”) would be eligible for payment under the new grain indemnity program. A failure would include a grain buyer or grain warehouse operator’s breach of contract, failure to pay, or failure to redeliver stored grain.
- 29     **Action on a breach of contract.**  
Eliminates the requirement that producers damaged by a grain buyer’s breach of contract must file a claim with MDA against the buyer’s surety bond no later than 180 days after the breach. Under section 6, the producer would now have up to three years to file a claim under the new grain indemnity program.

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**30 Bond requirements.**

Provides that requirements for, and actions against, grain buyer and grain warehouse operator surety bonds would now be governed by the new requirements and procedures in section 6, subdivision 13, of this bill.

**31 Written voluntary extension of credit contracts; form.**

Modifies language that must be included in the contract between a grain producer and grain buyer when the producer voluntarily defers payment for their grain until a later date. Instead of stating that this arrangement is not covered by the grain buyer's surety bond, the contract would include language notifying the producer that their full deferred payment amount may not be covered by the new grain indemnity program.

**32 Rules.**

Authorizes MDA to promulgate administrative rules governing the new grain indemnity program.

**33 Grain indemnity account.**

Establishes the grain indemnity program, as specified in the following subdivisions.

**Subd 1. Establishment.** Establishes the grain indemnity program under MDA's direction and control.

**Subd. 2. Account; appropriation.** Establishes a grain indemnity account in the agricultural fund and appropriates money in the account, including any interest earned on money in the account, to MDA to pay claims, issue refunds, and otherwise administer the new indemnity program.

**Subd. 3. Eligibility.** Provides that a producer is eligible for an indemnity payment if the producer sold grain to a grain buyer (whether licensed or not) or stored grain with a grain warehouse operator (whether licensed or not) and the grain buyer fails to pay for the grain or the grain warehouse operator fails to redeliver grain.

**Subd. 4. Application.** Requires producers seeking indemnity payments to file a claim with MDA. Requires MDA to promptly evaluate the claim and notify the producer whether their claim is approved or denied. Allows producers to appeal MDA's decision to the Office of Administrative Hearings, the state's administrative law court.

**Subd. 5. Payment limitation.** Establishes indemnity payment rates that vary based on the type of grain sale or storage agreement, the amount of money involved, and when either the contract originated or a claim is filed. Requires

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MDA to deny claims for stored grain submitted by a seller that holds a state grain buyer's license and a license from the United States Department of Agriculture under the United States Warehouse Act. Requires MDA to pay claims in the order received; if sufficient money is not available in the grain indemnity account, once sufficient money becomes available, MDA would first award any pending refunds then issue full payment to each eligible claimant.

**Subd. 6. Court order.** Authorizes MDA to petition a district court to appoint a trustee or receiver to manage and supervise a grain buyer or public grain warehouse operator in default. Authorizes MDA to recover the cost of a court-appointed trustee from the grain indemnity account.

**Subd. 7. Debt obligation; subrogated claim.** Provides that indemnity claim payments constitute a debt obligation for the grain buyer or public grain warehouse operator in default and authorizes MDA to take legal action against the buyer or operator to recover the claim amount plus reasonable costs, attorney fees, and interest. Requires producers who receive indemnity payments for voluntary extension of credit contracts to transfer an equivalent amount of their interest in the contract to MDA. Authorizes MDA to recover any debt to the grain indemnity account from the management of a grain buyer or grain warehouse operator if the person acted negligently or fraudulently.

**Subd. 8. Grain indemnity premiums.** Limits grain indemnity premiums to two-tenths of a percent of the price of the grain sold to a grain buyer, with the actual premium amount determined by MDA.

**Subd. 9. Collection and submission of grain indemnity premiums.** Requires producers to pay the indemnity premium to MDA for all grain sold to a grain buyer in Minnesota. Requires grain buyers to deduct the premium from the sale proceeds, notify the producer of the premium amount in writing, and remit the premium to MDA on behalf of the producer. Requires grain buyers to document premiums collected in the buyer's books and records, to retain these books and records for at least three years, and to make them available to MDA for inspection. Classifies records or portions thereof seized or copied by MDA as private or nonpublic data. Requires grain buyers to remit premium dollars to MDA biannually.

**Subd. 10. Amount in grain indemnity account; basis for suspension and reinstatement of grain indemnity premium collection.** Requires producers to pay grain indemnity premiums until the balance in the grain indemnity account reaches \$15 million as of June 30<sup>th</sup> of any year. At that point, MDA could not require additional premium collections until the account balance falls to \$9 million or less. If MDA resumes collections, it would be required to announce its

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intention in advance through publication in the State Register and by notifying all licensed grain buyers.

**Subd. 11. Grain indemnity refund; opt out.** Allows producers that pay the grain indemnity payment to apply to MDA for a refund. Requires MDA to refund an eligible producer's grain indemnity premiums within 90 days unless insufficient funds are available in the grain indemnity account. Provides that a producer who receives a refund is ineligible for indemnity payments unless the producer successfully reenters the program and pays MDA all premium dollars previously refunded to the producer plus interest. A producer who reenters the program would not be eligible for indemnity payments for any breach of contract that occurs within 90 days of the producer's reentry. Prohibits refunds to any producer that received an indemnity payment within the preceding three years.

**Subd. 12. Penalties; enforcement action; costs and expenses.** Establishes civil penalties, in addition to any penalty or remedy otherwise provided by law, for any person who knowingly or intentionally refuses or fails to collect or pay indemnity premiums, makes a false statement/representation/certification, fails to make a required statement/representation/certification, or interferes with MDA duties under this section. Requires MDA, in addition to the penalties previously described, to order the grain buyer to pay any premiums owed to the program and authorizes MDA to assess interest.

**Subd. 13. Grain bonds; new license holders.** Requires newly-licensed grain buyers and public grain warehouse operators to obtain a \$100,000 surety bond effective for the first three years of the license. Exempts certain grain buyers that purchase no more than \$1 million of grain per year solely with cash or case-equivalents. Authorizes MDA to require a supplemental bond based on financial statements submitted to MDA by the grain buyer under current law. Prescribes certain terms of the surety bond.

**Effective date:** This section would take effect July 1 of this year.

**34 Statement of grain in storage; reports.**

Eliminates existing language requiring licensed public grain warehouse operators to file annual reports with MDA for purposes of determining the operator's surety bond amount. These bonds would now be governed under section 6, subdivision 13, of this bill.

**35 License and permit surcharges.**

Authorizes MDA to impose a technology surcharge on all license and permit transactions for which MDA charges a fee. Sets the initial surcharge at five percent with a minimum fee of \$5 per transaction. Authorizes MDA to reset the fee annually

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**Section Description – Article 2: Agriculture Statutory Changes**

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within a range of three to eight percent. Appropriates surcharge revenue to MDA for information technology improvements required to create electronic licensing and permitting transaction systems and modernize MDA’s inspection and customer management systems.

**36 Repealer.**

Repeals the following statutes:

- Section 17.055, subdivision 2: Under current law, this subdivision abolishes the MDA’s Emerging Farmer Working Group on August 1, 2025.
- Section 18H.02, subdivisions 21, 22, and 23: Under current law, these subdivisions define the terms “nursery stock broker,” “nursery stock dealer,” and “nursery stock grower” for purposes of state nursery law.
- Section 18H.07, subdivisions 2 and 3: Under current law, these subdivisions establish nursery stock grower and dealer certificate fees.
- Section 35.156, subdivision 2: Under current law, this subdivision requires federal aid received by the state for chronic wasting disease to be deposited in a separate account in the federal fund and appropriated to MDA for the purposes for which the federal money was received.

## **Article 3: Broadband**

This article funds the Department of Employment and Economic Development’s Office of Broadband Development and transfers money to the border-to-border broadband fund account, which under current law, funds DEED’s Border-to-Border Broadband Development Grant Program and Broadband Line Extension Program. This article also increases the maximum grant amount for certain Border-to-Border Broadband Development Grant projects.

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**Section Description – Article 3: Broadband**

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**1 Broadband development appropriations.**

Inserts boilerplate language regarding the appropriation format and terminology used in this article.

**2 Department of Employment and Economic Development.**

Appropriates general fund dollars to DEED to operate the Office of Broadband Development and to award grants via the dedicated border-to-border broadband fund account.

**Section Description – Article 3: Broadband**

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**3 Limitation.**

Modifies language limiting the amount awarded to a project via the Border-to-Border Broadband Development Grant Program. Specifies that the existing 50 percent and \$5 million limitation would apply only to projects that do not also receive federal funding. If the project receives federal funding, the border-to-border grant could fund up to 75 percent of the project or \$10 million, whichever is less.



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